



STATE DEPARTMENTS  
AFFILIATED WITH  
NOT-FOR-PROFIT FOUNDATIONS

**From The Office Of State Auditor  
Claire McCaskill**

*Operational agreements are needed between  
state departments affiliated with not-for-profit  
foundations.*

Report No. 2001-122  
December 31, 2001  
[www.auditor.state.mo.us](http://www.auditor.state.mo.us)

PERFORMANCE AUDIT



Office of  
Missouri State Auditor  
Claire McCaskill

December 2001

[www.auditor.state.mo.us](http://www.auditor.state.mo.us)

**Missouri's financial support of not-for-profit foundations needs better definition, more accountability and specific results**

This audit reviewed the controls over state resources used to subsidize not-for-profit foundations. Auditors focused on 6 of the 23 not-for-profit foundations headquartered in state offices, and in many cases, run by state employees. The foundations are considered “quasi-governmental” entities that help state agencies meet public missions and are mostly funded through private donations. Each entity is also privately incorporated, which keeps records of foundation contributors and expenditures closed to the public.

State law does not prohibit such public-private affiliations, but it is illegal to give public money to a private corporation. (See page 2) Auditors found the public money subsidizing these foundations is not well-documented, making it nearly impossible to ensure such money is effectively used for state-authorized purposes.

**Foundations fund items inappropriate to charge to taxpayers**

State officials created some of the public-private affiliations to avoid tapping taxpayer money for certain expenses, such as receptions, dinners or gifts to promote Missouri. For example, state leaders created a foundation in 1981 to help attract business to Missouri. State employees, who also run the foundation, bring gifts to dignitaries during foreign trade missions or host more elaborate meals for business leaders to attract companies to the state. The foundation covers the gifts, the meals and the foreign travel. (See Appendix I, page 7)

**State funds foundations' administrative costs without agreements**

Auditors estimated that state officials spent \$278,987 from 1997 to 2001 in public funds to support the six not-for-profit foundations detailed in this audit. Most of the money went to equipment, including office space, and salaries/benefits for state employees who help run the foundation. State officials consider these state resources as their share of the public-private affiliation. But no documents exist to show the breakdown of state and private funding for these entities, how each entity benefits from the affiliation or the specific results of such affiliations. (See page 3)

**State employee time spent on foundation work not documented**

Only two of the six foundations reviewed by auditors track the time state employees spend on foundation work and then reimburse the state for that time. The remaining foundations do not track such charges. None of the foundations document the use of state business

YELLOW SHEET

equipment such as computers and telephone for foundation work, which is considered a non-state activity. (See page 4)

**STATE DEPARTMENTS AFFILIATED  
WITH NOT-FOR-PROFIT FOUNDATIONS**

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Honorable Bob Holden, Governor  
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The State Auditor's Office audited selected state departments and their affiliation with private not-for-profit foundations co-located on state property. Our objective was to determine the adequacy of controls used by the state departments to ensure operations of both entities were separate and distinct from one another.

While not-for-profit foundations can provide worthwhile assistance to various state activities and programs, state departments maintaining ongoing business relationships with not-for-profit foundations did not document all contributions, accomplishments and activities conducted through these arrangements. State controls and operational agreements should be implemented to monitor these business relationships, to ensure that state funds are being protected from unnecessary loss, and commensurate assistance is received.

The audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such tests of the procedures and records as were considered appropriate under the circumstances.

Claire McCaskill  
State Auditor

May 18, 2001 (fieldwork completion date)

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## **RESULTS AND RECOMMENDATIONS**

### **The State Needs to Improve Control over State Departments' Funding Affiliated with Not-for-Profit Foundations**

State department officials used their resources (office space, personnel and supplies) to subsidize private not-for-profit foundations without documented agreements. Based on a limited review of six foundations, state departments spent an estimated \$278,987 in resources over the past 5 years. State departments do not have any guidelines or agreements to follow regarding relationships with private foundations. In addition, state departments maintained these business relationships without documenting state resources used for non-state purposes. Without documentation or agreements, state departments cannot ensure state resources were used for authorized purposes or that commensurate assistance was received from these foundations.

#### **Background**

Private sector not-for-profit foundations, including public corporations, are typically located and operated within a private facility. The foundation maintains a private administrative and operational support staff compensated by the foundation, and financial support is obtained solely from private contributions. Public sector not-for-profit foundations can operate in public facilities, be staffed by government employees, and receive some public funding as well as private contributions. These foundations and the affiliated state departments usually share the same or similar missions such as coordinating community development programs.

Although no statute specifically addresses the permissibility for state departments to operate with or provide office space to not-for-profit foundations, Article III, sections 38(a) and 39(1) prohibits public funds being donated to a private corporation. While not-for-profit foundations are subject to all corporate regulations, these regulations also provide legal protection from most public oversight and accountability.

The audit focused on the 23 not-for-profit foundations headquartered in state facilities in Jefferson City and registered with the Missouri Secretary of State's Office. We selected six not-for-profit foundations for a detailed review based on their co-location in a state-owned or leased facility. We reviewed state department records pertinent to affiliated not-for-profit foundations and records voluntarily provided by some of these foundations. *(See Appendix II, page 9, for Objective, Scope and Methodology.)*

#### **State resources were used to provide operational and administrative support to private foundations**

Between 1997 and 2001, state departments provided an estimated \$278,987 in public funds to the six not-for-profit foundations. This estimate is based on:

- \$99,960 in state employee salaries that provided administrative and operational support for the general day-to-day operations of these foundations.
- \$93,252 in state employee benefit costs accrued during this time.

- \$85,775 in state office space, utilities, maintenance, equipment and supplies expenses.

**Table 1: Estimated 5-Year Unreimbursed State Funds Provided to Six Not-for-Profit Foundations**

Foundation	State Employee		Facility	Totals
	Salaries	Benefits	Expenses	
Hawthorn Foundation	\$69,588	\$24,389	\$ 7,248	\$101,225
Excellence in Missouri Foundation	0	0	72,468	72,468
MO Transportation Finance Corporation	0	57,972	612	58,584
MO Conservation Heritage Foundation	0	0	2,025	2,025
MO Rural Foundation	23,185	8,519	1,812	33,516
MO Assn. of Community Development Corporation	7,187	2,372	1,610	11,169
<b>Totals</b>	<b>\$99,960</b>	<b>\$93,252</b>	<b>\$85,775</b>	<b>\$278,987</b>

Source: Prepared by auditors

*(See Appendix III, page 11, for a specific breakdown of these state support calculations.)*

State resources used to support these affiliations were not documented to ensure commensurate private assistance was obtained. State officials have not established comprehensive agreements defining measurable operational expectations such as the use of state employee time, state office space, or other state resources. Moreover, no documentation exists showing the expected private foundation contributions to the affiliation. Without an agreement, state department officials had not defined the extent of state or private support for these affiliations or how to document the support.

Three of the six not-for-profit foundation relationships—Missouri Conservation Heritage Foundation, Association of Community Development and the Missouri Transportation Finance Corporation—maintained a limited operational agreement that provided for reimbursing the state departments for use of state employees. There was no evidence that the other three foundations had similar agreements with the state agencies.

Each of the six not-for-profit foundations we reviewed were headquartered and operated out of state-owned facilities. In all six cases, the state departments provided space, utilities, business equipment, and operating supplies to conduct the foundation’s daily business without any lease or other agreement. The state assumed liability protection in five of the six cases. The agreement with the Missouri Association of Community Development Corporations does not hold the state liable for any foundation business.

Not-for-profit foundations housed in state facilities

Five of the six private foundations were staffed entirely by 16 state employees who shared their daily responsibilities between the state and the private foundations. Two of the 16 state employees have management responsibilities for both the state and the private foundation. All but one of the state employees who had dual responsibilities with the not-for-profit foundations told us that they typically spent 5 to 75 percent, or an average of

State employees staff private foundations

17 percent, of their workday providing administrative support to the foundations' daily activities. Table 2 shows the estimated percent of time each state employee spent for private purposes.

**Table 2: Reported Percentage of State Employee Time Spent on Private Foundations**

Foundation	Type of State Employee	Percent of Employee Time Reported <sup>1</sup>
Excellence in Missouri Foundation	None used	N/A
Hawthorn Foundation	Special assistant	50
	Special assistant	15
	Executive Director	0
Missouri Association of Community Development Corporation	Incentive specialist	5
Missouri Conservation Heritage Foundation	Clerk	75
	Administrative assistant	41
	Executive assistant	5
Missouri Rural Foundation	Council Director	10
	Clerk	5
Missouri Transportation Finance Corporation	Financial Manager	25
	Research specialist	25
	Business specialist	5
	Program manger	5
	2 Senior Asst. Counsels (each)	5
	Financial control manager	5

Note: <sup>1</sup>These percentages were reported by the foundations and not verified by auditors.

Source: Prepared by auditors based on survey results

Two of the state employees received salaries from their respective foundations in addition to their state salaries. One employee has a high-level managerial position with the Hawthorn Foundation and the other provides general clerical support. However, statutes 105.452 and 105.454, RSMo govern potential compromising situations affecting state employees. The director of the Department of Economic Development stated the state employee with the high-level position receives between \$25,000 and \$35,000 a year from the foundation to supplement the state salary. The director said the department needed to have the foundation offer this supplement because the state salary of \$74,000 was insufficient to attract and keep a truly qualified candidate.

### **Adequate guidance was not provided to state employees who had dual responsibilities**

Of the six foundations we reviewed, 16 state employees worked part-time. Only two of these foundations—the Missouri Transportation Finance Corporation and the Missouri Conservation Heritage Foundation—documented the state employees' time used for private foundation purposes. Officials from these two foundations said they fully account for the time that state employees spend on the foundation's work and reimburse the state accordingly. However, current department policies and procedures do not adequately address this issue or the use of state business equipment such as computers or telephones for non-state activities.



Audit tests disclosed questionable time charges for the executive director who had dual responsibilities with the Hawthorn Foundation. This employee had discrepancies on two business trips over a 3-year period. For one trip to Ireland, the executive director wrote a letter to the Missouri Ethics Commission explaining that the trip was for private foundation activities and not for state business. The expense reports showed that the travel related expenditures were paid for by foundation funds. However, the employee charged the state for this time. The director of the Department of Economic Development, who supervised this employee, said the employee's time should have been better documented. To alleviate any potential liability to the state, the employee should have charged this time as either annual leave or leave without pay.

Questionable  
time charges  
were found

## Conclusions

Although private foundations can benefit state programs, state departments had no records to document the amount of all state resources provided these foundations or guidance concerning state involvement and support. Three of the six affiliations we reviewed had no agreement defining how basic operating procedures would be handled between the state departments and the private foundations. None of the foundations had leases with the state. In these cases, state departments did not record or justify state resources provided to these private foundations or seek reimbursement. State departments did not provide adequate guidance to state employees sharing dual responsibilities with private entities. These affiliations may create compromising situations to state employees with potential liability exposures to the state.

Without an operational agreement, state officials have no assurance that state resources were used effectively for state authorized purposes, or that the assistance from private foundations and the state are proportionate. Before future state funds or resources are expended on these affiliations, each state department should establish agreements with respective foundations which reflect the expected contributions from state resources and private foundations. These agreements should also contain mechanisms to measure the specific results of these affiliations against the expectations to justify their continuance.

## Recommendations

We recommend the Governor require:

- 1.1 State departments to have operational agreements with affiliated not-for-profit foundations establishing measurable operational expectations, contributions, and results.
- 1.2 State departments to have leases with any not-for-profit foundation housed in state-owned facilities. These leases must also protect the state from liability for damages that occur on state property.
- 1.3 The Department of Economic Development employee to reimburse the state for time claimed as state business but spent for private purposes.

**Commissioner of Administration responses:**

- 1.1 *The Office of Administration will convene an interagency work group to develop and recommend guidelines for operational agreements between state departments and affiliated not-for-profit foundations. Based on the recommendations of the work group the Commissioner will issue appropriate guidelines for operational agreements with not-for-profit foundations to executive agency officials.*
- 1.2 *The Office of Administration will convene an interagency work group to develop and recommend policies governing housing of not-for-profit foundations in state-owned facilities including the need to protect the state from liability for damages that occur on state property. Based on the recommendations of the work group, the Commissioner will issue appropriate policies for leasing space to not-for-profit foundations to executive agency officials.*
- 1.3 *DED response: DED directed this employee to amend his timesheets for that time period to reflect annual leave and the corresponding deduction has been made from the employee's annual leave balance.*

## **SIX NOT-FOR-PROFIT FOUNDATIONS**

This appendix describes the six foundations reviewed that were affiliated with state departments. Each foundation is considered a “quasi-governmental” entity because their primary function is to assist a state department in meeting its public mission. However, their funding is typically derived from private donations, membership contributions, non-direct solicitations through events and functions, or Federal grants that require a partial state matching of funds. Since each is privately incorporated, their activities and records are provided legal protection from public scrutiny.

### **Excellence In Missouri Foundation**

The Excellence In Missouri Foundation was established in 1992 by a Governor’s executive order to bring the management philosophies of the Malcolm Baldrige National Quality Award program to Missouri. In addition to the awards programs, the Foundation conducts education and support services to promote excellence principals in manufacturing, service, education, government, and health care. It engages in activities which seek to educate the general public, encourage and reward quality in business, and promote an economic climate to foster and enhance the prosperity of the citizens of the state. This organization maintains a direct working relationship with the Department of Economic Development, as well as the Governor’s Office.

### **The Hawthorn Foundation**

The Hawthorn Foundation was established in 1981 by a Governor’s executive order. It is comprised of voluntary non-partisan Missouri business leaders to supplement and support the mission and goals of the Governor’s Office and the Missouri Department of Economic Development. The foundation helps attract business to the state by either locating in Missouri or trading with Missouri businesses. It also helps fund creative projects that cannot be paid for by state funds. For example, the foundation is used to support elaborate dining, event receptions, and gifts for dignitaries and businessmen to promote and market activities that contribute to the economic growth of the state. The state then, by this affiliation, benefits from the good will these acts help to generate, according to the Director of the Department of Economic Development.

### **Missouri Association of Community Development Corporation**

This foundation was established in 1997 by Senate Bills 1 and 3 to strengthen and support community development corporations through networking, resource development, advocacy, training and technical assistance. A contractual agreement between the foundation and the Department of Economic Development exists whereby the department provides funding and space to support the foundation to further its goals. The foundation is also partially funded through annual dues from associate community members across the state. With the assistance of the department, the association will serve as a clearinghouse for information for community development corporations.

### **The Missouri Conservation Heritage Foundation**

The Missouri Conservation Heritage Foundation was organized by the Conservation Commission in 1997. The foundation's mission is to provide preservation, conservation and environmental opportunities to the public in the state of Missouri. By a memorandum of understanding between the foundation and the Conservation Commission, the foundation assists and supports the policies of the Commission through raising funds and developing programs to protect, increase public awareness of, and promote the wildlife, fish and forests of Missouri.

### **Missouri Rural Foundation**

The Missouri Rural Foundation was formed in 1995 as a partner of Missouri Rural Opportunities Council<sup>1</sup> to enable private contributions to fund seminars and conferences that benefit the council. These activities are to enhance opportunities or resolve issues in rural communities of Missouri by developing and disseminating information on infrastructure improvements, health and human needs, innovative finance, telecommunications issues and provide workshops, seminars, and conferences. This foundation maintains a direct working relationship with the Department of Economic Development.

### **Missouri Transportation Finance Corporation**

The Missouri Transportation Finance Corporation was established in 1996 as the “infrastructure banking system” identified in the federal Transportation Equity Act for the 21<sup>st</sup> Century.<sup>2</sup> This act established a program to channel federal funds into a non-partisan organization independent of political party influence. This corporation maintains a direct working relationship with the Department of Transportation and the Missouri Highways and Transportation Commission.

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<sup>1</sup> The Missouri Rural Opportunities Council (the council) was formally organized in November 1992 as Missouri's official state rural development council. A memorandum of understanding between the state and the U.S. Department of Agriculture created the council. It is required to obtain at least 25 percent of its funding from non-federal sources, and the state ensures that sufficient non-state resources are provided.

<sup>2</sup> Under the National Highway System Designation Act of 1995, the federal government established a pilot program to address the development and implementation of a method to control federal funds that are appropriated to various states for the development and expansion of state transportation systems. A supplemental agreement called the Transportation Equity Act for the 21<sup>st</sup> Century was established with the state to authorize the development of an infrastructure banking program for controlling such federal funds.

**OBJECTIVE, SCOPE AND METHODOLOGY**

**Objective**

The objective of this audit was to determine the adequacy of controls used by the state departments to ensure operations of both entities were separate and distinct from one another.

**Scope**

The scope of this audit was limited to not-for-profit foundations affiliated with state departments and agencies located in state office space in Jefferson City.

**Methodology**

We obtained the list of the 31,684 not-for-profit foundations registered with the Missouri Secretary of State's Office as of November 2000. This list included the registered name of the not-for-profit foundation, as well as their registered "headquarters" address. We identified the primary zip codes associated with the downtown "governmental" areas of Jefferson City, Kansas City, St. Louis, Springfield, St. Joseph, and Joplin, to identify the not-for-profit foundations whose addresses fell within these specific zip codes. We obtained a list of state-owned facilities from the Office of Administration's Facilities Management Division. By comparing "headquarters" addresses of both the state departments as well as the not-for-profit foundations, we identified 23 not-for-profit "quasi-governmental" foundations whose registered addresses matched state-owned facility addresses. All of the identified not-for-profit foundations were located within Jefferson City.

We sent survey questionnaires to the 23 not-for-profit foundations to obtain general information regarding their affiliations with state departments and agencies, as well as their organizational and operational structures. To focus our review, not-for-profit foundations operating with state departments that met the following criteria were selected:

- Headquartered and operated within a state-owned facility.
- Used state communication systems to facilitate their general operations, via computer services and/or telephone service.
- Had state employees perform significant organizational management or support functions for the private not-for-profit corporations.
- Assigned a vendor identification number through the Office of Administration.

Based on survey results, we selected six not-for-profit foundations for a detailed review.

## APPENDIX II

To assess state departments' resources used with not-for-profit foundations, we:

- Reviewed state statutes, regulations, and department policies.
- Reviewed the operational structure and missions of the not-for-profit foundations and their relationship with the affiliated state department.
- Reviewed state department records and records voluntarily provided by some not-for-profit foundations.
- Reviewed the activities conducted by the not-for-profit foundations, and identified the impact to the affiliated state department.
- Identified the amount of state contributions and resources that were consumed as a result of these coexisting partnership arrangements.
- Calculated an estimated value of state contributions (state employee salaries and benefits, office space, supplies) to the affiliated not-for-profit foundations, then researched for reimbursement to the state.
- Reviewed the adequacy of existing state department policies and procedures that address the coexistence of both business entities sharing state office space and resources.
- Determined the amount of government oversight empowered to the state over activities associated with these business relationships.
- Obtained payroll records from the Office of Administration of state employees who provided administrative or management function for the state and the six selected not-for-profit foundations for the period 1997 to 2001.

## APPENDIX III

### **5-YEAR ESTIMATED STATE FUNDS USED FOR PRIVATE PURPOSES**

This appendix describes the calculations for the estimated \$278,987 in public funds provided to six not-for-profit foundations affiliated with state departments shown in tables III.1, III.2, and III.3.

**Table III.1: Estimated 5-Year Administrative Support for the Six Foundations Using State Employees**

Not-For-Profit Foundation	State Dept.	Number of Employees	Average time Used	Amount of Unreimbursed Funds Used for State Employee Time <sup>1</sup>					
				1997	1998	1999	2000	2001 <sup>2</sup>	Total
The Hawthorn Foundation	DED	3	22%	\$11,768	\$12,195	\$14,676	\$15,208	\$15,741	\$69,588
Mo. Rural Foundation	DED	2	8%	3,826	4,148	4,295	5,364	5,552	23,185
Mo. Association of Community Development Corporations	DED	1	5%	1,337	1,386	1,436	1,488	1,540	7,187
Mo. Transportation Finance Corp. <sup>3</sup>	MoDOT	7	11%	0	0	0	0	0	0
Mo. Conservation Heritage Foundation <sup>3</sup>	MDC	3	40%	0	0	0	0	0	0
Excellence In Missouri Foundation	DED	0	0%	0	0	0	0	0	0
<b>Totals</b>				\$16,931	\$17,729	\$20,407	\$22,060	\$22,833	\$99,960

Source: Prepared by auditors

Notes: <sup>1</sup>These estimates were calculated using the employees' annual salary and based on the percent of time each employee spent on private business.

<sup>2</sup>The 2001 estimates were projected through the end of the calendar year based on actual costs through June 2001.

<sup>3</sup>The Missouri Transportation Corporation and Missouri Conservation Heritage Foundation reimbursed the state \$169,464 and \$24,440, respectively, for the cost of state employee salaries.

## APPENDIX III

### **5-YEAR ESTIMATED STATE FUNDS USED FOR PRIVATE PURPOSES**

**Table III.2: State Funds Used for Accrued Benefits of State Employees Performing Foundation Work**

Not-For-Profit Foundation	State Dept.	Number of Employees	Avg. time Used	Unreimbursed State Funds Used for Accrued Benefit Costs <sup>1</sup>					
				1997	1998	1999	2000	2001 <sup>2</sup>	Total
The Hawthorn Foundation	DED	3	22%	\$4,725	\$4,689	\$5,037	\$4,987	\$4,951	\$24,389
Mo. Rural Foundation	DED	2	8%	1,654	1,641	1,762	1,738	1,724	8,519
Mo. Association of Community Development Corporations	DED	1	5%	460	457	490	484	481	2,372
Mo. Transportation Finance Corp.	MoDOT	7	11%	11,271	11,180	11,998	11,812	11,711	57,972
Mo. Conservation Heritage Foundation	MDC	3	40%	0	0	0	0	0	0
Excellence In Missouri Foundation	DED	0	0%	0	0	0	0	0	0
<b>Totals</b>				\$18,110	\$17,967	\$19,287	\$19,021	\$18,867	\$93,252

Source: Prepared by auditors

Notes: <sup>1</sup>These estimates were calculated using the employees' annual benefits based on the percent of time respective employees worked on private business.

<sup>2</sup>The 2001 estimates were projected through the end of the calendar year based on actual costs through June 2001.

**Table III.3: Estimated Facility and Operational Support**

Not-For-Profit Foundation	State Dept.	Square feet Used By NFP	Avg. time Used	State Funds Used for Facilities and Operational Support <sup>1</sup>					Totals
				1997	1998	1999	2000	2001 <sup>2</sup>	
The Hawthorn Foundation	DED	600	22%	\$1,375	\$1,448	\$1,475	\$1,440	\$1,510	\$7,248
Mo. Rural Foundation	DED	400	8%	344	362	369	360	377	1,812
Mo. Association of Community Development Corporations	DED	400	5%	115	121	123	120	1,131	1,610
Mo. Transportation Finance Corp.	MoDOT	749	11%	111	116	122	128	135	612
Mo. Conservation Heritage Foundation	MDC	360	40%	0	35	37	952	1,001	2,025
Excellence In Missouri Foundation	DED	1200	0%	13,752	14,472	14,748	14,400	15,096	72,468
<b>Totals</b>				\$15,697	\$16,554	\$16,874	\$17,400	\$19,250	\$85,775

Source: Prepared by auditors

Notes: <sup>1</sup>These estimates were calculated using the Office of Facility Management's cost of square footage per location based on the percent of time respective employees worked on private business.

<sup>2</sup>The 2001 estimates were projected through the end of the calendar year based on actual costs through June 2001.